

Mr. RAUH. Judge Blackmun who ultimately wrote the great *Roe v. Wade* case. We did not oppose him. What we did was declare a victory because he was obviously pro Bill of Rights.

The CHAIRMAN. He was a member of the Cosmos Club, wasn't he?

Mr. RAUH. I have no idea.

The CHAIRMAN. He was.

Mr. RAUH. And the clubs were not quite the issue in 1970 that they are today.

The CHAIRMAN. That is a good point you just made. I am way over my time. I yield.

Senator SIMPSON. We could yield you some time from the senior Senator from South Carolina, if you would like a little more.

The CHAIRMAN. No. I think he is coming back to question Mr. Levi.

Senator SIMPSON. I would be glad to let you continue. I am fascinated by it, and I mean that. I think it is, you know, good—

The CHAIRMAN. No. I have many questions. I will come back. I yield.

Senator SIMPSON. Well, thank you, Mr. Chairman. I suppose it would have been a good time to duck, and let the chairman take all the lumps, but I am not going to let that happen.

The CHAIRMAN. Please don't help me too much, Alan. [Laughter.]

Senator SIMPSON. I know, Joe. Just relax. It is all right. You can just feel comfortable now. Just settle down. Don't let the meter run, though.

Anyway, to say that the Chairman has not been fair, and that somehow he has played "pattycake"—and that was the phrase—with this exercise, is just absurd, and it is offensive to me.

The reason it has not come to pass, I guess, like some of you would like it to come to pass, is that the digging has actually been done, but the diggers broke their pick during the last mother lode, and they cannot get it sharpened up again. It will not work. It is fascinating to watch.

I believe the Chairman is absolutely right. There is not any nominee that is going to pass your test, that comes out of this President. Why don't we just get right down to honesty on this one, at least from these two witnesses.

And to say that we should wait for the Justice Department, Mr. Rauh—and I have the greatest respect for you. I have been reading your material since I was a young lawyer in Cody, Wyoming—to say you want the Justice Department to enter in here before we go further, with some of the things you have said about Ed Meese and the Justice Department, is the "chuckle deluxe" of the whole year.

I mean, it has got to make you just gasp, and pitch forward on your ear.

Now, apparently Justice Stevens did not pass the test, O'Connor did not pass the test, Scalia did not pass the test, Rehnquist did not pass the test, and yet they are on the bench. Yes, they all are.

And so here we are, getting back to things about Rosa Parks, and the back of the bus, and into the kitchen, and *Roe v. Wade*. Wait a minute. You know, you all will get your shots here.

But this is not what we are talking about. We are trying to be reasonable. We are not going back and digging through the stacks

of things. And these are quotes of you. I know it may be puzzling but I scribbled them as you spoke.

I happen to believe in the result of *Roe v. Wade*. I do not believe in some of the tortuous reasoning that got them there, but I believe in *Roe v. Wade*, and I am not at all concerned about what this nominee will do, and I do not have any idea, what he will do.

But it will be done in a legal way, and a thoughtful way, but I do not think highly charged phrases are appropriate here.

If you want to know about what Judge Kennedy did, instead of just "romancing the rocks", he did 500 hours of pro bono work for a development project in his home community, called the Plaza de la Flores. Five hundred hours plus of pro bono work. I called that "putting your money where your mouth is."

So what are we talking about, this slicing up decisions, and coming to this kind of activity, when you see a guy who laid himself on the line for the Hispanic community in his own community? Five hundred hours plus of pro bono.

Is there anybody around who has done that much in their lives? I never did that much pro bono, I do not think, and I practiced law for 18 years.

Now that is what we are talking about, and so, you know, I would just like to kind of "put the English back on the cue ball" and bring it back across the green here, instead of just off into the vapors.

Now, you know, I think it is absurd to try to nail the Chairman as not having performed his function, and let's just look, if I may, at this issue of comparable worth. Comparable worth. There is not one soul here, or in this chamber listening—

Mr. RAUH. You are not going to give me a chance to answer the point you made before?

Senator SIMPSON. Yes. I have not asked you a question yet. You cannot possibly answer anything. I am not through yet.

Mr. RAUH. No, but I thought the subject of the things you said about me ought to be answered while you did it.

Senator SIMPSON. I know, but you can have your shot, and I will have it privately, or publicly. You know, you had yours.

Mr. RAUH. Well, I want it publicly.

Senator SIMPSON. I only get 5 minutes. To come in and then begin to talk about things of comparable worth, as if somehow we were setting up the sinister idea that nobody believes in equal pay for equal work. That is a given.

There is not anybody here that does not believe in equal pay for equal work. But when you get into comparable worth—and it is interesting to listen to that—comparable worth is never going to sell because it is incomprehensible.

It is a tangled skein of gnarled and convoluted concepts that makes a Gordian knot look like a straight rope. And whoever described it as—a good phrase—"a wild, inextricable maze"—is right. And so, why is it the States should not be free to do their own thing with comparable worth, if they so choose, without judicial imperialism commanding that they enact laws which apparently the legislature is unwilling to enact, and which would "break the bank" of most States in the Union.

Now that is a question, and then you can respond in any way you wish, but I mean, I get my time to talk, too. Shoot.

Mr. RAUH. I will leave to Molly Yard or Professor Ross the answers to your point on comparable worth because they know more about it than I do. But I would like to answer the earlier part of your discussion where you said that we had broken our pick because there was nothing there.

Nothing was asked that would have shown what was there. But secondly, you were criticizing us for saying, well, we would like to know what Mr. Meese knows. I am not a great advocate or lover of Mr. Meese, but I would like to know what he knows about Judge Kennedy's views.

Furthermore, you made two mistakes of fact.

Senator SIMPSON. Please. What are they?

Mr. RAUH. We did not oppose Stevens. We did not oppose—

Senator SIMPSON. Well, I was talking about the National Organization for Women. They did oppose Justice Stevens. I have a quote from there—

Mr. RAUH. You were talking to me at the time. And you also said we opposed Justice O'Connor, that we would oppose anybody that President Reagan sent up. We did not oppose Justice O'Connor. We did not. There was very little opposition to Justice O'Connor, and, as a matter of fact, did you oppose her, Molly?

Ms. YARD. We testified on her behalf. We supported her nomination.

Mr. RAUH. So your statement that we would not support anybody, or would oppose anybody from the Reagan administration, is simply erroneous, sir.

Senator SIMPSON. Well, I will split the difference with you. We have a quote from the National Organization for Women which says, "We oppose the confirmation of Judge Stevens. His antagonism to women's rights is clear." Now, that is what the National Organization of Women did, and that is a quote.

On the other one, I still think that I do not know who would please you from this President. I hold that view.

The CHAIRMAN. Would anyone else like to comment?

Ms. YARD. I would like to say quickly that it is the National Organization for Women. We are an organization of men and women for women's rights. We did support Sandra Day O'Connor. Eleanor Smeal testified on her behalf.

To play out Joe Rauh's belief that you can know where a person stands on rights, her record was very clear, and that is why we supported her.

On the comparable worth, the pay equity case, which is the *AFSCME* case, it is common practice in business and industry to do job evaluations, to classify them, and to assign wages and salaries according to the classifications. And the evaluation is based upon educational requirements, skill requirements, experience, and judgment.

The State of Washington did study three percent of their many, many jobs in the marketplace to find out what the marketplace was paying them. Then not doing a job evaluation, they simply assigned the rest of the jobs according to a system which they set up. That was that if you were, for instance, in one example, a school